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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,307	12/12/2003	Tsutomu Muraoka	SN-US025011A	7330

22919 7590 07/12/2005

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WASHINGTON, DC 20036-2680

EXAMINER
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LUONG, VINH

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/733,307

Applicant(s)

MURAOKA ET AL.

Examiner

Vinh T. Luong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 31-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



Vinh T. Luong  
Primary Examiner

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Attachment.

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on June 10, 2005 has been entered.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter, such as, "a transfer surface" in claim 32. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction is required.

3. Claims 31-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

The term "a transfer surface" in claim 32 is indefinite since it is unclear what element is transferred (e.g., heat, energy, power, or what?).

4. Claims 31-33, and 35-37, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Date (Japanese Utility Model No. 5-319350).

Regarding claim 32, Date teaches a bicycle pedal comprising:

a pedal shaft 5 having a first end (see Attachment) adapted to be coupled to a bicycle crank and a second end (Att.) with a center rotation axis (Att.) extending between said first and second ends;

a pedal body 1, q rotatably coupled to said second end (Att.) of said pedal shaft 5 about said center rotation axis (Att.) of said pedal shaft 5, said pedal body 1, q having a front end (Att.) and a rear end (Att.) with said front end (Att.) of said pedal body 1, q being configured and

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arranged to include a sole guide portion 2 that assists in rotating said pedal body 1, q about said pedal shaft 5, said sole guide portion 2 including a pair of laterally spaced projections (Att.) located on a forwardly facing tip surface of said pedal body 1, q that define a sole receiving recess (Att.) in an area disposed laterally therebetween and aligned with said projections (Att.);

a cleat engagement mechanism 3, 2 coupled to an upper surface of said pedal body 1, q, said cleat engagement mechanism 3, 2 including a front clamping member 2 (Fig. 7) coupled to said front end of said pedal body 1, q, and a rear clamping member 3 (Figs. 8 and 9) movably coupled to said rear end of said pedal body 1, q,

said front clamping member 2 includes a rearwardly facing front pedal control surface (Att.), and

said rear clamping member 3 including a forwardly facing rear pedal control surface (Att.), said forwardly facing rear pedal control surface inherently being a transfer surface.

Note that Date's forwardly facing rear pedal control surface inherently transfer, e.g., the heat or force. Therefore, Date's forwardly facing rear pedal control surface reads on Applicants' claimed transfer surface.

Regarding claim 33, said front and rear cleat engagement surfaces (Att.) are *substantially* parallel as seen in, e.g., Figs. 2 and 10.

Regarding claim 35, said front clamping member 2 is non-movably coupled to said pedal body 1, q.

Regarding claim 36, said front clamping member 2 is integrally formed with a pedal main body 1 as a one-piece, unitary member.

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Regarding claim 37, said rear clamping member 3 is pivotally coupled to said pedal body 1, q.

Regarding claim 31, said front clamping member 2 includes a downwardly facing front cleat engagement surface (Att.) disposed in a first plane (Att.), and said rear clamping member 3 includes a downwardly facing rear cleat engagement surface (Att.) disposed in a second plane (Att.) that is offset from said first plane (Att.) of said front cleat engagement surface 2 as best seen in Figs. 2 and 10.

5. Claim 34, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Date.

Date's first plane (Fig. 10 of Att.) of the front cleat engagement surface 2 is farther to the center rotation axis (Att.) than the second plane (Att.) of the rear cleat engagement surface (Att.) as measured in a direction perpendicular to the first and second planes (Att.).

It is common knowledge in the art to reverse or rearrange Date's first plane of the front cleat engagement surface such that it is closer to the center rotation axis than the second plane of the rear cleat engagement surface as measured in a direction perpendicular to the first and second planes in order to couple Date's cleat to Date's pedal. To rearrange Date's first plane such that it is closer or farther to the center rotation axis than Date's second plane would have been an obvious choice in design because the claimed structure and the function it performs are the same as the prior art. *In re Chu*, 66 F.3d 292, 36 USPQ2d 1089 (Fed. Cir. 1995). See also legal precedents regarding rearrangement of parts in MPEP 2144.04. Moreover, the first plane of the front cleat engagement surface which is closer to the center rotation axis than the second plane of the rear cleat engagement surface as measured in a direction perpendicular to the first and second

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planes is notoriously well known in the art as evidenced by the art cited (see, *e.g.*, US Patent No. 4,928,549 issued to Nagano and US Patent No. 5,778,739 issued to Takahama).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to rearrange Date's first plane such that it is closer instead of being farther to the center rotation axis than Date's second plane in order to couple the cleat to the pedal as taught or suggested by common knowledge in the art.

6. Applicants' arguments filed June 10, 2005 have been fully considered but they are not persuasive.

Applicants contend:

Date discloses a cleat engagement mechanism with a rear clamping member. However, Applicants respectfully submit that Date does not show a forwardly facing rear pedal control surface. *The surface pointed to in the attachment to the Office Action is not a forwardly facing rear pedal control surface because it is not a transfer surface. That is, the surface pointed to in the attachment does not transfer a force from a cleat.* Indeed, the surface pointed to in the attachment does not contact the cleat and therefore has no control aspect, which could cause it to be considered a control surface. Therefore, Applicants respectfully submit that claim 32, as now amended, is not anticipated by the prior art of record. (Emphasis added).

First, in response to Applicants' argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (*i.e.*, *the surface pointed to in the attachment does not transfer a force from a cleat*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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Applicants' claim 32 broadly recites "a transfer surface" without any mention about force. Meanwhile, the surface pointed to in the attachment does transfer, *e.g.*, heat from the outside atmosphere to the body of the clamp 3. Thus, the surface pointed to in the attachment "reads on" the claimed "transfer surface." *Kalman v. Kimberly Clark Corp.*, 218 USPQ 781, 789 (CAFC 1983).

On the other hand, the surface pointed to in the attachment *does* transfer a force from the cleat. In fact, as shown in, *e.g.*, Date's Figs. 7-10, when the rider applies or pushes the cleat 11 into engagement with the clamp 3, a force exerted by the rider's foot is transferred from the cleat 11 to the clamp 3 via its hook 14. The instant force causes the clamp 3 moving forwardly toward the body 1 of the pedal as best seen in Figs. 9 and 14. The movement of the clamp 3 is stopped when the clamp 3 is abutted with the body 1 of the pedal. At the time that the clamp 3 is abutted with the body 1 of the pedal, the force is then transferred from the clamp 3 to the body 1 by the surface pointed to in the Attachment. Therefore, claim 32 is again "fully met" by Date.

For the reasons set forth above, Applicants' request to withdraw the rejections is respectfully denied.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 571-272-7099. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

July 7, 2005

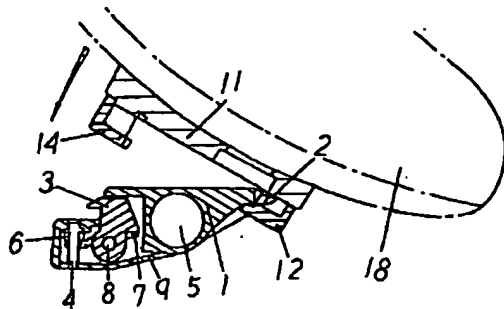
A handwritten signature in black ink, appearing to read 'Vinh T. Luong', with a long horizontal line extending to the right.

Vinh T. Luong  
Primary Examiner



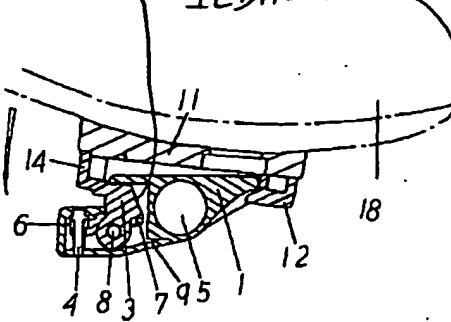
# **ATTACHMENT**

【図7】

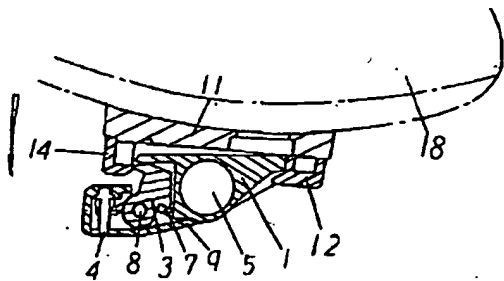


【図8】

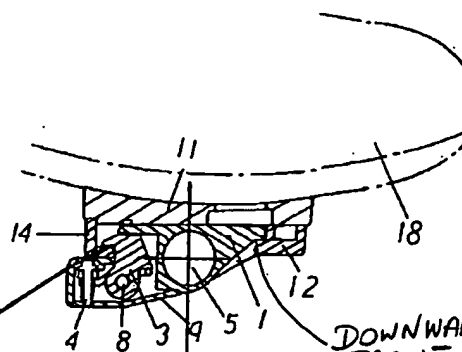
FORWARDLY FACING REAR  
PEDAL CONTROL SURFACE



【図9】



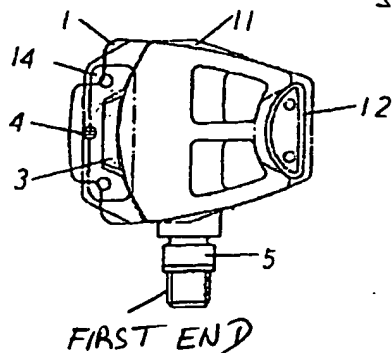
【図10】



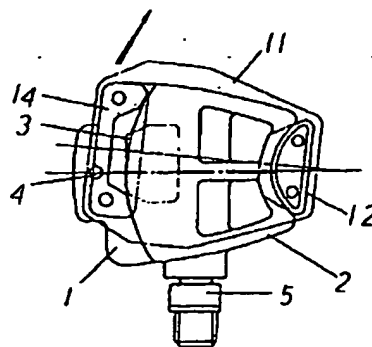
DOWNWARDLY FACING REAR  
CLEAT ENGAGEMENT  
SURFACE/SECOND PLANE

DOWNWARDLY FACING  
FRONT CLEAT ENGAGEMENT  
SURFACE/FIRST PLANE

【図11】



【図12】

【図13】 SECOND  
END